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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/540,185
Filing Date: March 20, 2006
Appellant(s): HARS, LASZLO

Robert M. McDermott, Reg. No. 41,508
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/1/08 appealing from the Office action mailed 07/02/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 7,167,560 to Yu, hereinafter Yu.

Regarding claim 1, Yu teaches a method of distributing various quality versions of an electronic content, comprising:

defining each quality version of the electronic content (Figure 7, column 3, lines 6-21, "different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer data for club members, and full playback for authorized or paid customers)", column 7, lines 31-57 and column 10, lines 38-49);

defining at least one distortion algorithm executable to generate a lower quality version of the electronic content by a distortion of a high quality version of the electronic content (column 3, lines 6-21, "different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer

data for club members, and full playback for authorized or paid customers)" and lines 27-31, column 4, lines 27-47, "where the encryption is more significant, there comes a degree of disruption at which the media is rendered substantially imperceptible or of such low quality as to be substantially unsuitable to the recipient", column 7, lines 21-57 and column 10, lines 38-64);

assigning at least one content key to at least one quality version of the electronic content (column 4, lines 27-47, column 7, lines 21-45 and column 10, lines 50-64);

distributing the higher quality version, the at least one distortion algorithm, and the at least one content key (column 3, lines 6-21, "different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer data for club members, and full playback for authorized or paid customers)" and column 7, lines 21-57, "Recipients wishing to view/listen to a higher quality version of the media can be furnished with a key (for a fee) that will decrypt the one or more enhancement layers" and "a recipient with both the first and the second decryption keys (for a fee) can decrypt the entire medium and enjoy it in its full and highest quality").

Regarding claim 2, Yu teaches wherein the distributing includes storing the high quality version of the electronic content on an electronic content medium (column 4, lines 48-60).

Regarding claim 3, Yu teaches wherein the distributing includes storing the at least one distortion algorithm on the electronic content medium (column 3, lines 6-21, "different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer data for club members, and

full playback for authorized or paid customers)” and lines 27-31, column 4, lines 27-47, “where the encryption is more significant, there comes a degree of disruption at which the media is rendered substantially imperceptible or of such low quality as to be substantially unsuitable to the recipient”, column 7, lines 21-57 and column 10, lines 38-64).

Regarding claim 4, Yu teaches wherein the distributing includes storing the at least one distortion algorithm on an electronic content player (column 3, lines 6-21, “different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer data for club members, and full playback for authorized or paid customers)” and lines 27-31, column 4, lines 27-47, “where the encryption is more significant, there comes a degree of disruption at which the media is rendered substantially imperceptible or of such low quality as to be substantially unsuitable to the recipient”, column 7, lines 21-57 and column 10, lines 38-64).

Regarding claim 5, Yu teaches wherein the distributing includes storing the at least one content key on the electronic content medium (column 4, lines 27-47, column 7, lines 21-45 and column 10, lines 50-64).

Regarding claim 6, Yu teaches wherein the distributing includes storing the at least one content key on an electronic content player (column 4, lines 27-47, column 7, lines 21-45 and column 10, lines 50-64).

Regarding claim 7, Yu teaches an electronic content medium, comprising:
a high quality version of an electronic content (column 3, lines 6-21, “different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for

general population, higher level preview with clearer data for club members, and full playback for authorized or paid customers)", column 7, lines 21-57 and column 10, lines 38-64); at least one distortion algorithm executable to generate a lower quality version of the electronic content by a distortion of the high quality version of the electronic content (column 3, lines 6-21, "different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer data for club members, and full playback for authorized or paid customers)" and lines 27-31, column 4, lines 27-47, "where the encryption is more significant, there comes a degree of disruption at which the media is rendered substantially imperceptible or of such low quality as to be substantially unsuitable to the recipient", column 7, lines 21-57 and column 10, lines 38-64).

Regarding claim 8, Yu discloses the electronic content medium including at least one content key assigned to one of the quality versions of the electronic content (column 4, lines 27-47, column 7, lines 21-45 and column 10, lines 50-64).

Regarding claim 9, Yu discloses an electronic content player, comprising:
a decryption unit operable to decrypt and decode a high quality version of an electronic content (column 7, lines 1-8 and 32-57 and column 10, lines 51-64);
and a distortion unit operable to generate a lower quality version of the electronic content by a distortion of the decrypted and decoded high quality version of the electronic content (column 3, lines 6-21, "different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer data for club members, and full playback for authorized or paid customers)" and

lines 27-31, column 4, lines 27-47, "where the encryption is more significant, there comes a degree of disruption at which the media is rendered substantially imperceptible or of such low quality as to be substantially unsuitable to the recipient", column 7, lines 21-57 and column 10, lines 38-64).

Regarding claim 10, Yu discloses including a controller operable to direct the decryption unit to decrypt and decode the high quality version of the electronic content in accordance with a content key associated with the electronic content (column 7, lines 1-8 and 32-57 and column 10, lines 51-64).

Regarding claim 11, Yu discloses including a controller operable to direct the decryption unit to decrypt and decode the high quality version of an electronic content in accordance with a content key assigned to one of a lower quality version of the electronic content (column 7, lines 1-8 and 32-57 and column 10, lines 51-64).

Regarding claim 12, Yu discloses including a controller operable to direct the decryption unit to decrypt and decode the high quality version of an electronic content in accordance with a content key associated with the electronic content subsequent to a reception of a secret key assigned to the electronic content player (column 3, lines 6-21, "different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer data for club members, and full playback for authorized or paid customers)", column 7, lines 1-8 and 32-57 and column 10, lines 51-64).

Regarding claim 13, Yu discloses including a controller operable to direct the decryption unit to decrypt and decode the high quality version of an electronic content in accordance

with a content key assigned to one of a lower quality version of the electronic content subsequent to a reception of a secret key assigned to the electronic content player (column 3, lines 6-21, "different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer data for club members, and full playback for authorized or paid customers)", column 7, lines 1-8 and 32-57 and column 10, lines 51-64).

Regarding claim 14, Yu discloses including a controller that is configured to control the distortion unit to generate the lower quality version of the electronic content based on a content key assigned to the lower quality version (column 3, lines 6-21, "different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer data for club members, and full playback for authorized or paid customers)" and lines 27-31, column 4, lines 27-47, "where the encryption is more significant, there comes a degree of disruption at which the media is rendered substantially imperceptible or of such low quality as to be substantially unsuitable to the recipient", column 7, lines 21-57 and column 10, lines 38-64).

Regarding claim 15, Yu discloses including a media reader that is configured to read a media that contains the high quality version of the electronic content (column 3, lines 6-21, "different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer data for club members, and full playback for authorized or paid customers)" and column 7, lines 21-57, "Recipients wishing to view/listen to a higher quality version of the media can be furnished with a key (for a fee) that will decrypt the one or more enhancement layers" and "a recipient

with both the first and the second decryption keys (for a fee) can decrypt the entire medium and enjoy it in its full and highest quality”).

Regarding claim 16, Yu discloses including a controller that is configured to control the distortion unit to generate the lower quality version of the electronic content based on a content key assigned to the lower quality version (column 3, lines 6-21, “different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer data for club members, and full playback for authorized or paid customers)” and lines 27-31, column 4, lines 27-47, “where the encryption is more significant, there comes a degree of disruption at which the media is rendered substantially imperceptible or of such low quality as to be substantially unsuitable to the recipient”, column 7, lines 21-57 and column 10, lines 38-64).

Regarding claim 17, Yu discloses wherein the media includes the content key (column 7, lines 21-57, “Recipients wishing to view/listen to a higher quality version of the media can be furnished with a key (for a fee) that will decrypt the one or more enhancement layers” and “a recipient with both the first and the second decryption keys (for a fee) can decrypt the entire medium and enjoy it in its full and highest quality”).

Regarding claim 18, Yu discloses wherein the controller is configured to obtain the content key independent of the media (column 4, lines 27-47, column 7, lines 21-45 and column 10, lines 50-64).

Regarding claim 19, Yu discloses wherein the controller is configured to control the distortion unit to generate the lower quality version of the electronic content based on the content key (column 3, lines 6-21, “different quality levels of preview available to different

types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer data for club members, and full playback for authorized or paid customers)" and lines 27-31, column 4, lines 27-47, "where the encryption is more significant, there comes a degree of disruption at which the media is rendered substantially imperceptible or of such low quality as to be substantially unsuitable to the recipient", column 7, lines 21-57 and column 10, lines 38-64).

(10) Response to Argument

Argument 1: "Yu fails to teach a method that includes defining a distortion algorithm executable to generate a lower quality version of the electronic content by a distortion of a high quality version of electronic content and distributing the higher quality version and the distortion algorithm, as specifically claimed in claim 1".

The Examiner asserts that Yu teaches said method, as cited within column 3, lines 6-21, "different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer data for club members, and full playback for authorized or paid customers)" and lines 27-31, column 4, lines 27-47, "where the encryption is more significant, there comes a degree of disruption at which the media is rendered substantially imperceptible or of such low quality as to be substantially unsuitable to the recipient". The encryption algorithm, as disclosed by Yu, provides the distortion of the content. Further, within column 7, lines 21-30, "Recipients wishing to view/listen to a higher quality version of the media can be furnished with a key (for a fee) that will decrypt the one or more enhancement layers. Further different levels of preview capability can be implemented by providing different layers of encryption keys". A

"higher quality version" is provided to a recipient and access to said version is possible upon receivership of the means for access/viewing.

The Appellant's "a high quality version of electronic content" is initially created and the lower quality version is what is initially available, based upon the "encryption-caused disruption" as cited within Yu in column 4, lines 32-40. If a user wants to access said "higher quality version", the appropriate key would be needed. A lower quality version is not converted into a higher quality version, but rather the opposite, as cited within Yu. Thus, Yu teaches the Appellant's claimed method, as cited above.

Argument 2: "Yu does not teach distributing a higher quality version, per se, and does not teach distributing a distortion algorithm".

The Examiner respectfully disagrees with the Appellant's argument and asserts that it is the recipient's level of access that dictates the quality of the content that is being viewed. A set quality version is created and then distorted via the "encryption-caused distortion" as cited within column 4, lines 32-40 of Yu.

Further, within column 7, lines 21-30, "Recipients wishing to view/listen to a higher quality version of the media can be furnished with a key (for a fee) that will decrypt the one or more enhancement layers. Further different levels of preview capability can be implemented by providing different layers of encryption keys". A "higher quality version" is provided to a recipient and access to said version is possible upon receivership of the means for access/viewing.

Thus, the Appellant's claimed "a higher quality version" is distributed to the recipients with the appropriate keys.

Argument 3: “With reference to the cited text, the Office action acknowledges that Yu teaches that higher quality versions of the content is created by decrypting the one or more enhancement layers, and fails to show where Yu teaches a distortion algorithm”.

The Examiner respectfully disagrees with this interpretation of the previous office action. The “higher quality versions of the content” are not “created by decrypting the one or more enhancement layers”, but rather access to said “higher quality versions” is provided upon said “decrypting”. The “higher quality versions” is the initial version, with the “encryption-caused distortion” as cited within column 4, lines 32-40 of Yu providing the reduced quality version that a recipient obtains.

Argument 4: “Yu fails to teach storing a distortion algorithm on an electronic content player”.

The Examiner respectfully disagrees and upholds the above-cited grounds of rejection. With regards to the “electronic content player” as claimed by the Appellant, the Examiner cites column 7, lines 25-57, “Recipients wishing to view/listen-to a higher quality version of the media can be furnished with a key (for a fee)...” and “For non-club members, e.g., 20 seconds of the medium at a low reproduction quality only can be viewed while the club member can be provided with the first decryption key to preview the medium in full albeit in low quality”. In order to “view/listen-to”, there needs to be some type of medium for which the recipient utilizes, thus providing support within Yu for the claimed “electronic content player”.

Further, by having "20 seconds of the medium at a low reproduction quality" that can be viewed, the "player" being utilized by the recipient would have a cache of the content, which has been distorted via the "encryption-caused distortion" as cited within column 4, lines 32-40 of Yu.

Argument 5: "Yu fails to teach an electronic content medium that includes a high quality version of an electronic content and a distortion algorithm executable to generate a lower quality version of the electronic content by a distortion of the high quality version of the electronic content, as specifically claimed by claim 7, upon which claim 8 depends".

The Examiner asserts that Yu teaches said medium, as cited within column 3, lines 6-21, "different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer data for club members, and full playback for authorized or paid customers)" and lines 27-31, column 4, lines 27-47, "where the encryption is more significant, there comes a degree of disruption at which the media is rendered substantially imperceptible or of such low quality as to be substantially unsuitable to the recipient". The encryption algorithm, as disclosed by Yu, provides the distortion of the content.

Further, within column 7, lines 21-30, "Recipients wishing to view/listen to a higher quality version of the media can be furnished with a key (for a fee) that will decrypt the one or more enhancement layers. Further different levels of preview capability can be implemented by providing different layers of encryption keys". A "higher quality version" is

provided to a recipient and access to said version is possible upon receivership of the means for access/viewing.

The Appellant's "a high quality version of electronic content" is initially created and the lower quality version is what is initially available, based upon the "encryption-caused disruption" as cited within Yu in column 4, lines 32-40. The lower quality version is presented to the recipient upon successful distortion of the previously higher quality content; thus, Yu teaches the Appellant's claimed medium, as cited above.

Argument 6: "Yu fails to teach an electronic content player that includes a decryption unit operable to decrypt and decode a high quality version of an electronic content and a distortion unit operable to generate a lower quality version of the electronic content by a distortion of the decrypted and decoded high quality version of the electronic content, as specifically claimed in claim 9, upon which claims 10-19 depend".

The Examiner respectfully disagrees and asserts that Yu discloses this claim language, as cited within column 7, lines 1-5, "Different keys are provided such that those having the base layer decryption key may view the media in lower quality while those having both the base and one or more enhancement layer keys may view the media in higher quality", lines 25-29, "Recipients wishing to view/listen-to a higher quality version of the media can be furnished with a key (for a fee) that will decrypt the one or more enhancement layers", lines 41-45, "The authorized customer who paid for the medium can access another enhancement layer representing the highest quality with a single (or multiple) decryption key(s) obtained at time of purchase" and lines 51-57, "For non-club members, e.g., 20

seconds of the medium at a low reproduction quality only can be viewed while the club member can be provided with the first decryption key to preview the medium in full albeit in low quality".

The decryption keys, as disclosed by Yu, provide the recipient content with various quality levels, depending upon the "one or more enhancement layers".

With regards to the "distortion unit", the Examiner asserts that Yu teaches said "distortion unit", as cited within column 3, lines 6-21, "different quality levels of preview available to different types of users (e.g., lower level with least clear data preview for general population, higher level preview with clearer data for club members, and full playback for authorized or paid customers)" and lines 27-31, column 4, lines 27-47, "where the encryption is more significant, there comes a degree of disruption at which the media is rendered substantially imperceptible or of such low quality as to be substantially unsuitable to the recipient". The encryption algorithm, as disclosed by Yu, provides the distortion of the content.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jeremiah Avery/

Examiner, Art Unit 2431

Conferees:

/Christopher A. Revak/

Primary Examiner, Art Unit 2431

/Kimyen Vu/

Supervisory Patent Examiner, Art Unit 2435